United Nations CRPD/C/NZL/Q/1

Convention on the Rights of Persons with Disabilities

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**Committee on the Rights of Persons with Disabilities**

# List of issues in relation to the initial report of New Zealand*

## A. Purpose and general obligations (arts. 1–4)

### Purpose (art. 1)

1. Please inform the Committee whether the State party will ratify the Optional Protocol as recommended in the 2011–2012 annual report of the Independent Monitoring Mechanism of the Convention on the Rights of Persons with Disabilities.

2. Since April 2001, the Disability Strategy has been in place in New Zealand. Please update the Committee on the strategy.

### Definitions (art. 2)

3. In the State party's initial report (CRPD/C/NZL/1), it is stated that "boys make up 59 per cent of disabled children, reflecting higher rates of some disabling medical conditions". Please give further details on those medical conditions.

### General obligations (art. 4)

4. Please provide information on plans to promote and monitor the engagement principles and engagement model developed by the State party and disabled persons' organizations to ensure disabled people, through their representative organizations, can meaningfully participate in decisions that affect them.

## B. Specific rights

### Equality and non-discrimination (art. 5)

5. Please give up-to-date statistics, disaggregated by sex, on the numbers of cases brought by persons with disabilities alleging discrimination in employment; in the provision of accommodation; and in the provision of goods and services. Please specify the percentage of claims that were successful, and the remedies granted, and the percentage of claims which were settled, disaggregated by sex.

* Adopted by the pre-sessional working group at its first session (14–17 April 2014).

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6. Please provide information on plans to reconsider the New Zealand Public Health and Disability Amendment Act 2013 and to repeal those sections that limit further legal action and limit the circumstances in which family members can be paid and the categories of family members that can be paid.

7. With regard to the decision of the New Zealand Court of Appeal in *Smith* v. *Air New Zealand Ltd* [2011] NZCA 20, could the State party please inform the Committee whether the State party has considered amending section 52 of the Human Rights Act 1993 to clarify that the language "cannot reasonably be expected" conforms to the definition of "reasonable accommodation" in article 2 of the Convention.

**Women with disabilities (art. 6)**

8. Please update the Committee on any programmes designed to support women with disabilities in employment, in combating violence and in other aspects of life.

**Children with disabilities (art. 7)**

9. Please give details on measures taken to assist children with disabilities to access government, medical and social welfare services.

**Accessibility (art. 9)**

10. Please explain whether the provisions concerning accessibility in the Building Act 2004 and the Building Code apply to new public buildings and private buildings. Will the Building Act and Code operate to guarantee accessibility when public and private buildings are renovated?

11. Please provide information on plans to raise compliance with New Zealand Government Web Standards, and to extend the scope of mandatory compliance with those standards to crown entities, including District Health Boards, local authorities and schools.

**Situations of risk and humanitarian emergencies (art. 11)**

12. Please update the Committee on the State party's disaster response and recovery plans and procedures developed since the Canterbury earthquake disaster. Please inform the Committee of recent measures to consult and protect persons with disabilities.

**Equal recognition before the law (art. 12)**

13. The Protection of Personal and Property Rights Act 1988 establishes a system of guardianship with a regime of substituted decision-making where the threshold for intervention is high. Please explain whether initiatives are being taken to replace substituted decision-making with regimes of supported decision-making, in conformity with article 12 of the Convention.

**Access to justice (art. 13)**

14. Please explain whether New Zealand law provides access to justice for persons with disabilities engaged in the statutory dispute resolution process, with regard to adequate funding, procedural fairness and reliable evidentiary procedures under the New Zealand Accident Compensation scheme.

15. Under the Juries Act 1981, persons with disabilities may serve on juries; however, a judge may discharge a juror with disabilities. In practice, have blind or deaf New Zealand citizens served on juries? Please give details on the exercise of the judicial discretion to discharge potential jurors with disabilities.

16. Please update the Committee on the results of the 2011 review of the New Zealand Sign Language Act 2006. Please inform the Committee whether measures have been taken to ensure that deaf persons who are charged with offences are given appropriate interpreter assistance in court and in obtaining legal assistance.

**Liberty and security of the person (art. 14)**

17. Please update the Committee on the number of persons detained under the Mental Health (Compulsory Assessment and Treatment) Act 1992 and under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

18. Please give updated information on the use of seclusion orders and the establishment of measures to replace seclusion in the treatment of patients.

**Freedom from violence and abuse (art. 16)**

19. Please inform the Committee of the State party's response to recommendation 17 in the 2011–2012 annual report of the national monitoring body.

20. Please give details on the number of sterilizations of women and girls with intellectual disabilities carried out without their full and free consent via a court order. Is the State party intending to end that practice?

**Living independently and being included in the community (art. 19)**

21. Please give updated information on the implementation of the independent living model and the Enabling Good Lives project.

**Respect for home and the family (art. 23)**

22. Please inform the Committee whether the State party is willing to review section 8 of the Adoption Act, to allow persons with disabilities to adopt children on an equal basis with others.

**Education (art. 24)**

23. The rate of tertiary study by persons with disabilities is very low. Please give details on measures being taken to increase the level of tertiary education by persons with disabilities.

24. Bullying of children with disabilities is an issue in some New Zealand Schools. Please give updated information on measures taken to stamp out bullying.

25. In its concluding observations (CRC/C/NZL/CO/3-4, 2011) the Committee on the Rights of the Child noted that "only 20 hours of free early childhood education and care are available and that there is limited access for many children, especially those in need". Please update the Committee on the early childhood intervention and education given to children with disabilities.

**Health (art. 25)**

26. Please give details on the measures being taken by the State party to improve access to health facilities and services for persons with disabilities, especially persons with intellectual disabilities, including access to sexual and reproductive health services for women and girls with disabilities.

27. Please give details on the measures being taken to provide health services to Maori and to Pacific island people.

**Work and employment (art. 27)**

28. Please update the Committee on further measures by the State party to increase the levels of employment of persons with disabilities, including Maori and Pacific island people with disabilities, since the publication of the initial report.

**Participation in political and public life (art. 29)**

29. In the initial report, it is stated that "all people under compulsory care or treatment are entitled to vote unless they have committed criminal offences and have been detained for three years or longer". However, it appears that, under section 80 of the Electoral Act 1993, read together with related statutes, some New Zealanders with psychosocial disabilities but without any criminal convictions may still be excluded from voting if they are in a rehabilitation institution or if they are a former patient. Please give details on the circumstances in which persons with intellectual and/or psychosocial disabilities are not permitted to vote, for reasons other than conviction or imprisonment.

**Participation in cultural life, recreation, leisure and sport (art. 30)**

30. Please provide information on any plans to increase the accessibility of television, DVDs, movies and online media, including plans to ensure the progressive increase in the percentage of captioning and audio description provided.

31. Please indicate any measures taken for the expeditious signing and ratification of the recently adopted Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which allows access to published material to blind persons, persons with visual impairments or persons with other difficulties in having access to printed materials; and about measures to ensure its effective implementation.